

NC COASTAL RESOURCES COMMISSION (CRC)

September 23, 2015

New Hanover County Government Center
Wilmington

Present CRC Members

Frank Gorham, Chair

Neal Andrew
Gwen Baker
Larry Baldwin
Suzanne Dorsey
Marc Hairston

Greg Lewis
Jamin Simmons
Harry Simmons
Bill White

Present CRAC Members

Debbie Smith, Chair
Spencer Rogers, co- Vice Chair
Rudi Rudolph, co-Vice Chair
John Brodman
Jett Ferebee
Mike Moore
David Moya
Frank Rush
Ray Sturza
Dave Weaver
Lee Wynns

Present Attorney General's Office Members

Mary Lucasse
Christine Goebel

CALL TO ORDER/ROLL CALL

Frank Gorham called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Renee Cahoon and John Snipes were absent. Harry Simmons disclosed that his company has a new client, Great Lakes Dredge and Dock Company. No conflicts were reported. Based upon this roll call Chairman Gorham declared a quorum.

Chairman Gorham stated that, in the event that neither he nor the Vice Chair, Renee Cahoon could make it to a meeting, a second Vice-Chair should be named. **Harry Simmons made a motion to name Neal Andrew as second Vice Chair. Jamin Simmons seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, H. Simmons, Gorham, Baker, Dorsey,**

Hairston, Lewis)(Andrew abstained). Mary Lucasse, CRC Counsel, stated the CRC's Internal Operating Procedures will be updated to reflect the new officer structure.

The Commission presented Bill Morrison, past Chair and 12 year member of the Coastal Resources Advisory Council, a Certificate of Appreciation for his years of service to the State of North Carolina and commitment to the Advisory Council and Commission.

MINUTES

Gwen Baker reported that she voted incorrectly on the third criterion in the North Topsail Beach variance request (CRC-VR-15-05) and requested that the minutes be amended to reflect voting against the motion that hardships did not result from actions taken by the Petitioner.

Larry Baldwin made a motion to approve the minutes of the July 16, 2015 Coastal Resources Commission meeting as amended. Harry Simmons seconded the motion. The motion passed unanimously (Gorham, Andrew, Baker, Baldwin, Dorsey, Hairston, Lewis, J. Simmons, H. Simmons, White).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

I'd like to provide a brief update on Division activities, and then following the CRAC report I will also brief you on the new State Appropriations Act and other pending legislation that is relevant to the Commission.

On the Regulatory side of DCM, permit activity for the year continues to be up overall in comparison with past years. For example, DCM has issued approximately 20 more Major Permits to date in 2015 compared to the same time period in 2014. As I previously reported, on June 15th, a settlement was announced for the legal challenges relating to the construction of the Bonner Bridge over Oregon Inlet in Dare County. DCM has now completed all of our obligations under the settlement, and following a withdrawal by the plaintiffs of their appeal in the Office of Administrative Hearings, the CAMA permit for the Bonner Bridge was reinstated on August 14th. As I understand, NCDOT anticipates construction will begin on the replacement bridge within the next few months. DCM Policy staff are proceeding with the rulemaking process and fiscal analyses for several CRC rules involving the Development Line and amendments to the Static Line (7H .0305; .0306; 7J .1200; and 7J .1300). The fiscal analysis has been approved by DENR and is now being reviewed by OSBM, but we understand that only minor edits will be required before final OSBM approval, so we can proceed today with asking for your approval of the fiscal analysis. The legislatively-required Periodic Review Report for your 7B Land Use Planning Guidelines has received final approval from the Rules Review Commission and the Administrative Procedure Oversight Committee. The rule amendments have been posted in the NC Register with the public comment period running from September 15 – November 16, 2015. In order to adopt the rules at the November CRC meeting, a public hearing will be held on October 14th, 2015 at the Morehead City DCM office at the 5:00 pm. Planning staff will also be notifying local governments of the public comment period and public hearing date directly by email. If any Commissioners are interested and available to attend, we need a hearing officer or we need the Chairman to delegate Mike as the hearing officer. (It was necessary to have the public hearing outside of a Commission meeting so we can stay on schedule to adopt the 7B and 7L amendments at the November CRC meeting.) The proposed effective date of the re-written land use planning guidelines is January 1, 2016. The Coastal Reserve is continuing its work on the draft management plan update for the N.C. National Estuarine Research Reserve. This draft will be informed by comments received by Local Advisory

Committees and NOAA on the draft outline review earlier this year. Additional input will also be solicited on the full draft management plan from DENR, Local Advisory Committees, the Commission, and NOAA later this winter. A 30-day public comment period and public meetings on the final draft will be held prior to final publication sometime in 2016. The Coastal Reserve is inviting everyone to celebrate National Estuaries Week, Sept. 19-26. Community paddles, a clean-up, and informational booths will be held at Reserve sites and in the local communities throughout the week. Information on these events is available on the event calendar on the Reserve website. Also, fall student field trips are underway at the Rachel Carson and Masonboro Island Reserves. This fall marks the beginning of an expanded partnership for the Masonboro Island Explorer program, a partnership between the Coastal Reserve and Masonboro.org, to provide educational, science-based field trips for fifth grade students in New Hanover County and that now includes Duke Energy and Carolina Ocean Studies. Seven hundred students will participate in the program this year thanks to a \$10,000 grant from Duke Energy to Masonboro.org. The Coastal Reserve and Carolina Ocean Studies developed the program curriculum, which was approved by the New Hanover County School System. Carolina Ocean Studies will be delivering the educational program to the students. This is a great partnership and it's great for the students.

Staff Updates

On August 1st, Heather Coats began work as one of DCM's assistant major permits coordinators. Heather has been a field representative in our Wilmington Regional Office since 2006. She also has, and will continue to, work with the Commission on various policy-related issues, such as the State Ports Inlet Management AEC presentation on your agenda later today. Heather will remain based in the Wilmington regional office, and will generally be handling projects in the southern portion of the state. We are in the process of filling Heather's vacant field representative position, and hope to have more news on this position at your next meeting. I am also pleased to announce that on August 24th, Ms. Courtney Spears began work as our second Assistant Major Permits coordinator in the major permits section. She has had strong coastal management experiences working with the NC Coastal Federation, the Louisiana Coastal Protection and Restoration Agency, and most recently with the Bald Head Island Conservancy. Courtney will be located in the DCM Morehead City office, and will generally be handling projects in the northern region of the coast. One additional staff update is Becky Burcham, who worked with DCM for 15 years in Raleigh and handled our IT and database management systems, retired in late July. We wish her the best of luck in retirement. We hope to refill that position in the Morehead City office and should be advertising that position soon. Finally, we are planning for the next Commission meeting to be held in Atlantic Beach on November 17-18.

Chairman Gorham stated that the public hearing for the amendments to Subchapters 7B and 7L is scheduled for October 14 at the DCM office in Morehead City and a hearing officer is needed.

Greg Lewis made a motion to delegate Mike Lopazanski as hearing officer for this public hearing in the event no Commissioners are available. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

CRAC REPORT

Debbie Smith, CRAC Chair, stated the consensus of the CRAC was that it is time to start over with a clean slate with sandbag rules. Proposed legislation has given us some direction. Our communities need to be involved with these temporary structures. If there are sandbags that are uncovered or unsightly then we need to be able to take action to litigate that. As for the size of sandbag structures,

one size does not necessarily fit all. In inlet locations we may need to handle these by variance. We all agreed that we need to preserve and protect public beach access.

LEGISLATIVE UPDATE

Braxton Davis stated the 2015 Appropriations Bill reduced the cost-share from 50% to 25% for tier-one counties and 33.4% for tier-two and tier-three counties for the Shallow Draft Navigation Fund, which was already in existence. The Bill also adds Hatteras Inlet to the definition of a Shallow Draft Inlet which makes it eligible for the fund. It adds three million dollars each fiscal year of 2015-2017 for Oregon Inlet and 150 thousand dollars to the Department of Administration to explore acquiring federal land adjacent to Oregon Inlet and reserves 250 thousand dollars to update the NC Beach and Inlet Management Plan by December 2016. The BIMP was first published in 2010. The law allows the Department to contract with the same contractor that did the original BIMP, Moffatt & Nichol. The Division of Water Resources will be the lead agency. A Deep Draft Navigation Channel Fund was created to be funded through appropriations, but there is not an initial funding stream setup. This part of the bill directs the State Ports Authority to enter into an MOA with the Corps of Engineers and directs DEQ to enter into a similar MOA for Oregon Inlet dredging. The bill also authorizes the Department of Administration to acquire federal land necessary for the maintenance of navigation access to the Morehead City port. The Cape Fear Estuarine Resource Restoration section of the bill has a finding that the New Inlet Dam, commonly referred to as The Rocks, impedes the natural flow of water between the Cape Fear River and the ocean and it is necessary to study the removal of the rocks. This section directs the Department (DEQ) to notify the Corps of the state's intent to study the removal of the southern portion of the New Inlet Dam and request NOAA approval to adjust the boundary of Zeke's Island Coastal Reserve and add acreage to the Reserve from the Fort Fisher State Recreational Area. If NOAA approves the boundary change, it directs the CRC to amend the Reserve Component Rule, however the Reserve rules are Department rules and not those of the CRC. A request for information is to be issued to identify firms capable of conducting the analysis and report to the Legislature by April 1, 2016. DCM will be the lead agency. The Appropriations Bill also addresses abandoned vessels and gives coastal counties authority to prohibit the abandonment of vessels in navigable waters by local ordinance. The bill directs the CRC to amend sandbag rules to allow sandbags even if there are no imminently threatened structures when an adjacent property has a sandbag structure, to allow contiguous sandbag structures from one shoreline boundary of a property to the other regardless of the proximity to an imminently threatened structure, define the termination date of all permits for contiguous sandbag structures on the same property to be the same and be the latest of the termination dates, allow the replacement, repair or modification of damaged sandbags legally placed with a current permit or an expired permit being litigated by the property owner. The CRC is directed to adopt temporary rules to incorporate these changes by December 31, 2015. The bill also raises the cap on terminal groin permits from four to six and specifies that two of the six permits may be issued only for the construction of a terminal groin at New River Inlet in Onslow County and Bogue Inlet between Carteret and Onslow counties. DMF and DCM have been directed, in consultation with representatives of conservation non-governmental organizations working on oyster restoration, to create a new permitting process instead of the current CAMA Major Permit. Until that is done, DMF's scientific or educational activity permit shall be utilized. This will require both CRC and MFC rule changes. We need to figure out the definition of an oyster restoration project. This report is due by May 1, 2016. DCM is also directed to study and develop a proposed strategy for preventing, mitigating and remediating effects of beach erosion. The study shall consider efforts by other states and countries to prevent beach erosion and ocean overwash and to sustain beaches and coastlines. This study is due February 15, 2016. Other changes in the bill included the renaming of DENR to the Department of Environmental Quality and DENR non-

regulatory programs (State Parks, Zoo, Aquariums, Museum, and Clean Water Management Trust Fund) were transferred to the Department of Natural and Cultural Resources. DENR and DNCR were also directed to study moving other DENR divisions and sections, including the Coastal Reserves and Marine Fisheries to the Department of Natural and Cultural Resources. This report is due by April 1, 2016. House Bill 44, Local Government Regulatory Reform, gives coastal cities authority to regulate, restrict or prohibit the placement, maintenance, location or use of uninhabitable structures that unreasonable restrict the public's right to use the state's ocean beaches, directs the EMC to examine ways to provide regulatory relief from impacts of riparian buffer rules on land parcels platted on or before the effective date of the rule, and in the Neuse and Tar-Pamlico River Basins, Zone 1 of a protective riparian buffer shall begin at the most landward limit of the normal high water line or normal water level, as appropriate. House Bill 765, Regulatory Reform Act, mandates coastal stormwater rule changes to eliminate triggers for 10,000 square feet of nonresidential and lowers the threshold for residential development from 12% to 24% impervious coverage. DENR is directed to study exempting linear utility projects from environmental regulations, including CAMA permits. DCM issues dozens of general permits per year under 7H .1600. This study report is due March 1, 2016.

ACTION ITEMS

Approval of Fiscal Analysis – Development Line and Static Line Amendments (CRC 15-24)

Ken Richardson

Ken Richardson stated the costs associated with the static vegetation line exception and the development line are equal except for the initial costs to adopt and the ongoing reporting costs for the static line exception. Communities without an exception can anticipate an average first-time cost of approximately \$9,000 to assemble the required information to be submitted to the CRC for an approval. Communities seeking a static vegetation line exception reauthorization every five years can anticipate averages costs of \$3,500. Based on cost estimates received from CB&I and Geodynamics, a development line would likely cost about \$1,200 per mile or \$4,000 per day to survey in. It is assumed that an average total cost to survey in a development line would be \$5,000 based on the average length of current static vegetation lines. Requesting a development line or a static vegetation line exception is voluntary for communities, therefore these new rules do not require local governments to incur any additional expenditures unless they choose to do so. Private property owners may experience some loss of value or opportunity cost if the community in which their property is located has a static line and chooses not to apply for a static line exception or adopt a development line. The proposed amendments to the static line exception and new development line rules will benefit oceanfront property owners by allowing the potential utilization of a more favorable measurement line. There will be no impacts to NCDOT or DCM.

Harry Simmons made a motion to approve the fiscal analysis for 15A NCAC 07H .0305, 07H .0306, 07J .1201, 07J .1301, 07J .1302, and 07J .1303. Neal Andrew seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

CRAC Appointments

Daniel Govoni

Daniel Govoni stated the Coastal Resources Advisory Council (CRAC) was created by the Coastal Area Management Act of 1974. In 2013, Session Law 2013-360 vacated the membership of the CRAC and reduced the council to 20 members. The law gave the CRC the sole authority to appoint CRAC members. At the February 2014 CRC meeting in Nags Head, the CRC appointed 10 individuals to the CRAC. Since that time three additional members have been appointed. Terms for

all CRAC members expired on June 30, 2015. At the July CRC meeting the Council recommended two additional members for appointment, Johnny Martin and Beth Midgett. New terms will expire on June 30, 2017.

Chairman Gorham directed Debbie Smith, Chair of the CRAC, to begin each meeting with a disclosure of any conflicts by members of the CRAC.

Harry Simmons made a motion to reappoint the 13 members currently serving on the CRAC and appoint Johnny Martin and Beth Midgett with all terms expiring on June 30, 2017. Marc Hairston seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

Town of Pine Knoll Shores Land Use Plan Certification (CRC 15-16)

Mike Lopazanski

Mike Lopazanski stated this is an update to the Town of Pine Knoll Shores' CAMA Land Use Plan. The plan being considered for certification builds on the existing certified plan. Goals, objectives and policies remain based on the existing plan but further shape the Town's needs and vision for the future. DCM staff has reviewed the plan and has determined that the Town has met the substantive requirements outlined in the 7B land use planning guidelines and that there are no conflicts with either state or federal law or the State's coastal management program. Staff recommends certification.

Harry Simmons made a motion to certify the Town of Pine Knoll Shores' Land Use Plan. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

City of Jacksonville Land Use Plan Amendment (CRC 15-17)

Mike Lopazanski

Mike Lopazanski stated this is an amendment to the City of Jacksonville's 2001 CAMA Land Use Plan. They are seeking this amendment to modify the Future Land Use Map designations on 39 parcels of land to reflect previously adopted rezoning requests since the Land Use Plan was last amended and certified by the CRC on August 30, 2012. Staff has reviewed the amendment and has determined that the City has met the substantive requirements outlined in the 7B land use planning guidelines and that there are no conflicts with either state or federal law or the State's coastal management program. Staff recommends certification.

Harry Simmons made a motion to certify the City of Jacksonville's Land Use Plan amendment. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

Sandbag Rules and Policies (CRC 15-18)

Mike Lopazanski

Mike Lopazanski stated the history and evolution of the sandbag rules were reviewed with the Commission at the February meeting. The Outer Banks Erosion Task Force realized that property owners needed a temporary measure to protect their property for a short period of time until threatened structures could be relocated or until the effects of short-term erosion could be reversed. These temporary measures included beach nourishment, sandbags and beach bulldozing. Currently, sandbags can be used to protect an imminently threatened structure. A structure is considered to be

imminently threatened if its foundation or septic system is located less than 20 feet from the erosion scarp. Structures that are farther than 20 feet can be considered imminently threatened if there are site conditions such as a flat beach profile or accelerated erosion. This determination is made by the Division Director. Sandbags shall not extend more than 20 feet past the sides of the structure being protected and the landward side of the sandbag structure cannot be located more than 20 feet seaward of the structure being protected. Sandbags can remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5,000 square feet or less and its associated septic system or for up to five years for a structure with a total floor area of more than 5,000 square feet. Sandbags can remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project. Sandbag structure dimensions are limited to 20 feet wide at the base and 6 feet high. The property owner shall be responsible for removal of the sandbags within 30 days of the end of the allowable time period. Sandbags are not required to be removed if they are covered with stable and natural vegetation. With the discussion of the State Ports AEC, discussions were had regarding expanded sandbag uses including protection of natural features, expansion of when a structure is considered imminently threatened, and the size of individual bags. The legislature has also directed the CRC to expand the use of sandbags through temporary rules. These temporary rules shall amend sandbag rules to allow sandbags even if there are no imminently threatened structures when an adjacent property has a sandbag structure, to allow contiguous sandbag structures from one shoreline boundary of a property to the other regardless of the proximity to an imminently threatened structure, define the termination date of all permits for contiguous sandbag structures on the same property to be the same and be the latest of the termination dates, and allow the replacement, repair or modification of damaged sandbags legally placed with a current permit or an expired permit being litigated by the property owner.

Braxton Davis stated the options for the Commission are to direct Staff to come back with rule language for a new approach to sandbags or to bring back rule language to implement these changes in the temporary rules and then look at sandbags holistically at a later date. We can get the legislative responsibilities out of the way and then the CRC can address the overall sandbag policy in terms of what property owners need and look at the recommendations of the Advisory Council.

Neal Andrew made a motion to address the legislative requirements and draft temporary rules and then come back at a future meeting to address a complete overhaul of the sandbag rules. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

Update on USACE & Carteret County MOA

Justin McCorkle, USACE

Justin McCorkle stated we want to discuss the potential Atlantic Beach MOA, the potential for a couple of long-term MOAs, and some relatively new news from the Corps regarding some model MOAs. These model MOAs are specific to issues we have brought up here in North Carolina. We have been able to move forward in the absence of an overarching MOA. When the federal government does federal projects we have a certain amount of money and a certain way that the projects are planned to be done and must be done. The MOAs have allowed us to leverage non-federal funds to do a job that we would not be able to afford or would not be able to do otherwise. The most impressive one we have, on a local and national level, is the Shallow Draft Navigation MOA done with the state of North Carolina. The Division of Water Resources was very forward

thinking as they saw the federal funding levels for shallow draft inlets decline. They jumped in and offered a mechanism to provide some non-federal funding. We are working with the Town of Atlantic Beach. When we dredge in Morehead City the Town would like to place the sand beyond the Circle. The Town has offered to be able to contribute funds to pay the extra money to place it where they want it. We have a model MOA approved. This is a step in the right direction. We could be able to have that happen as early as this winter. We are waiting on the State Ports about the inner harbor. We have been able to provide the Town a cost estimate. The MOA with the State is for four years. We have been asked to extend this MOA for an additional ten years with the funding provided in the State budget. Those of you from the northern part of the state are aware of what is going on at Hatteras Inlet. This is outside of the federal channel. We don't have any authority to dredge there. Our headquarters came through with a model MOA for work in local service facilities that would allow us to take funds from other sources, but use our dredges to allow this critical dredging to take place. This is another potential success story that I hope to report on this winter. As of the last CRC meeting, our working group met to discuss a long-term MOA for the Morehead City and Wilmington harbors with DENR, DWR and State Ports. DENR initially was concerned with not wanting to interfere with the state ports in those areas. The State Ports has not committed into entering into an MOA, but don't mind if DENR enters into an MOA for beneficial use. We may need to consider moving forward with separate MOAs. The next step is for a letter of intent to be sent to me requesting to pursue an MOA and outline the areas and activities involved.

Rudi Rudolph commented that the one time MOAs are good for us as a County because we can contribute. For the beneficial use part we need to approach the Governor and the Ports to see if they want a programmatic approach for beneficial use of the harbor. Since the beneficial use piece was taken out of the State Ports AEC language then we need to work on that more before we take that out. The model only takes money from local governments and the State isn't involved to contribute. The local governments are passing money through the State to contribute to the Corps. Internally we have been wrestling with local control over the projects.

After discussion, the Commission agreed to draft a letter to the State Ports and invite them to a meeting with the Corps, DEQ, and DWR to discuss this issue.

PUBLIC INPUT AND COMMENT

Mark Richard, of Carolina Beach, commented on his opposition to the Carolina Beach boardwalk extension. (written comments provided)

Donald Motsinger, of Carolina Beach, commented on his opposition to the Carolina Beach boardwalk extension. (written comments provided)

Robert Lewis, of Carolina Beach, commented on his opposition to the Carolina Beach boardwalk extension.

John Zachodzki, of Carolina Beach, commented on his opposition to the Carolina Beach boardwalk extension. (written comments provided)

Renee Lewis, of Carolina Beach, commented on her opposition to the Carolina Beach boardwalk extension.

Cathy Lane, of Caroline Beach, commented on her opposition to the Carolina Beach boardwalk extension. (written comments provided)

Sharon Lyons, of Carolina Beach, commented on her opposition to the Carolina Beach boardwalk extension.

Robert Broome, NC Association of Realtors, commented in support of the grandfathering of multi-family beachfront structures.

CRC RULE DEVELOPMENT

State Ports Inlet Management AEC – Sandbag Use & Boundaries (CRC 15-19)

Heather Coats

Heather Coats stated this will be a review of the rule language and the maps. At the last meeting the Commission asked that the beneficial use language be removed from the draft rule. The sandbag rules for this area were also discussed. Given recent legislation and the Commission's desire to change the sandbag rules in their entirety, does the Commission want to review the sandbag policies for this area? Chairman Gorham stated the sandbag portion for this AEC should be discussed when we look at all of the sandbag rules and advised the staff to move forward with this language, take into account the recent legislation, and any recommendations from the CRAC.

Amendments to Ocean Erodible AEC – Recession Line (CRC 15-20)

Mike Lopazanski

Mike Lopazanski stated the Ocean Erodible Area is a subclass of the Ocean Hazard AEC. The Ocean Erodible Area covers North Carolina's beaches and any other oceanfront lands that are subject to long-term erosion and significant shoreline change. The seaward boundary of the AEC is the mean low water line. The landward boundary of the AEC is measured from the first line of stable natural vegetation and is determined by adding a distance equal to 60 times the long-term average annual erosion rate for that shoreline to the distance of shoreline recession expected during a 100-year storm. The shoreline recession model has a minimum of 25 feet and a maximum of 330 feet. Because of the changes we have made to the ocean hazard area formulations since 2009, we need to change the setback factor of 60 feet to 90 feet. This will provide consistency with the setback rules in 7H .0306. Staff believes the use of the 100-year storm recession line may no longer be needed. An increase from 60 to 90 times the erosion rate will provide the necessary jurisdiction to implement the management objectives of the Ocean Hazard Area to reduce the loss of life and property due to hazards associated with the Atlantic shoreline. Coast-wide, there will be reduction of approximately 7,500 properties from the CRC's jurisdictional area. This is in addition to the 15,000 properties removed with the elimination of the High Hazard Flood Area AEC. Staff is requesting approval to change the setback factor from 60 to 90 feet and remove the reference to the recession line in 15A NCAC 07H .0304.

Harry Simmons made a motion to approve the proposed amendments to 15A NCAC 07H .0304 for public hearing. Neal Andrew seconded the motion. The motion passed unanimously (Baldwin, White, J. Simmons, Andrew, H. Simmons, Gorham, Baker, Dorsey, Hairston, Lewis).

Pile Supported Signs in Coastal Wetlands (CRC 15-21)

Tancred Miller

Tancred Miller stated this is a follow up from the variance request at the last meeting. The variance requested the installation of a sign within the AEC, but did not meet the definition of water dependent. The rules limit development in coastal wetlands to water dependent structures. This was an unusual case. The Commission requested that staff bring back a mechanism to make this allowable in the future. The coastal wetlands rule (7H .0205) defines coastal wetlands, their significance, management objectives and use standards. Conservation and management of coastal wetlands are the management objectives. The use standards require that in every instance development shall be consistent with 7H .0208 which states that uses which are not water dependent shall not be permitted in coastal wetlands. The rules also give examples of the types of development and uses that are considered water dependent. Proposed language has been added to 7H .0205 to allow pile supported signs by request from a local government. The staff has a number of questions

for the Commission. How big can the signs be, what are the criteria on the height, how many signs within the wetlands, who has access to the signs for repair or maintenance, and what is allowable content? The Commission determined that no action was necessary as this request is a rare occurrence.

CRC RULE & POLICY DISCUSSION

Minor Modifications to Major Projects (CRC 15-22)

Doug Huggett

Doug Huggett stated when an applicant receives a Major Permit the permit is active for three years from the date of issuance. There are multiple opportunities for renewals. When you factor in the complexity of development on the coast there is a lot of potential for change to the project over time. At least fifty percent of Major Permits request a change to the proposed development. When a proposed change comes in then a modification to the permit is needed. There are major and minor modifications. The CRC's rules are relatively silent on determining whether the change is major or minor. DCM factors in the scope and scale of the proposed modification in comparison to the original proposed project. We also coordinate with multiple state and federal agencies for any modifications with the agencies that reviewed the original Major Permit application. Public interest is also considered when determining whether a modification is major or minor. When a modification is determined to be major then a new application is required. When a modification is determined to be minor then it is circulated to the relevant agencies and adjacent property owners may need to be notified. Staff needs to balance the need for a thorough review and the needs of the applicant. Staff attempts to require adjacent property owner notification only in those cases where such notifications would appear to serve a valid purpose. If the adjacent property owner objected to the original application then they will be notified of modifications to the project. Chairman Gorham stated he is comfortable with the way the Division is handling modifications.

Grandfathering of Multi-family Structures

Steve Shuttleworth, Shuttleworth Realty

Steve Shuttleworth stated this is a follow up from a discussion with the Commission last December. This is a statewide issue, but has come to the forefront from some of our local associations, that there is a need for a rule amendment to grandfather multi-family structures. The current rules allow replacement of single family and duplex residential structures that meet certain criteria. This does not include multi-family units even if they meet the same criteria. This has caused a problem with financing and sales of property. In Carolina Beach and Kure Beach this affects 1090 properties. We are requesting a rule amendment to apply to all residential structures with a total floor area greater than 5,000 square feet, regardless of the number of attached units. This will not apply to structures built after August 11, 2009, will not allow construction of new residential structures in the ocean hazard setback area, and will not allow replacement of residential structures larger than the original footprint or square footage. This will allow these properties to go through the financing process.

Braxton Davis stated the current rule is consistent with specific legislation that was passed in 2011. Suzanne Dorsey asked about staff concerns with this proposal. Braxton replied that the initial thoughts are that the size of the building is what matters the most, not use. Grandfathering large structures and allowing them to go back into a hazardous area concerns the Division. Grandfathering would be more appropriate when there is a clear, demonstrated commitment by the community for long-term erosion control. We are interested in the Commission's feedback. Gwen Baker commented that the legislation in 2011 may have been bad legislation to grandfather homes without a long-term solution that would provide protection for these properties and adding these multi-family structures into this rule could add additional unprotected properties. There are two

standards right now and we should look at that, but we don't need to make a bad situation worse. Chairman Gorham asked staff to bring back rule language options that could address this issue and to quantify how many properties this would effect that do not have a long-term beach maintenance plan in place.

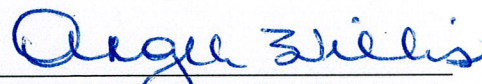
OLD/NEW BUSINESS

The Commission agreed on five meetings for 2016. One meeting should be scheduled in the Nags Head area, one meeting should be held in the Wilmington area, and the remaining three should be in the Morehead City area. A proposed schedule will be sent to the Commission soon.

With no further business, the CRC adjourned.

Respectfully submitted,


Braxton Davis, Executive Secretary


Angela Willis, Recording Secretary